

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KEVIN CONLEY,

Plaintiff,

v.

SCO J. DISTEFANO, et al.,

Defendants.

Civil Action No. 15-1512(FLW)

MEMORANDUM AND ORDER

This matter having been opened to the Court by Kevin Conley's "Motion for Sanctions, Dismissal, or Extension" (ECF No. 64), which he filed in response to the second Motion for Judgment on the Pleadings (Second Motion) pursuant to Fed. R. Civ. P. 12(c), brought by Deputy Attorney General Adam Robert Gibbons on behalf of State Defendants SCO J. DiStefano and SCO D. Shaw ("Moving Defendants") (ECF No. 63). It appearing that:

1. The Court previously granted Moving Defendants' Motion for Judgment on the Pleadings with respect to the federal and state law claims arising under 28 U.S.C. § 1028, N.J.S.A. 2C:21-17.6, N.J.S.A. 56:11-44, et seq., N.J.A.C. 10A:22-1.5, and N.J.A.C. 10A:22-2.3. (ECF Nos. 61-62.) The Court, however, denied without prejudice the Motion for Judgment on the Pleadings with respect to Plaintiff's § 1983 claims because Moving Defendants raised their arguments for dismissal of the § 1983 claims for the first time in their Reply Brief. (*Id.*)

2. The Court explicitly permitted Moving Defendants to file a second Motion for Judgment on the Pleading with respect to the § 1983 claims within 30 days of the Court's May 30, 2017 Order. (*Id.*)

3. On June 29, 2017, Moving Defendants timely filed their second Motion for Judgment on the Pleadings with respect to Plaintiff's § 1983 claims. (ECF No. 63.)

4. Plaintiff subsequently submitted the instant motion for sanctions, dismissal, or extension. (ECF No. 64.) Plaintiff contends in his motion that Defendants improperly rely on Fed. R. Civ. P. 12(b)(6) in their motion papers and chose a slow method of service for delivering the motion papers to Plaintiff. Plaintiff also states that he is working on other legal matters and that his word processor is in the prison repair shop and is expected to be returned by July 21, 2017. (ECF No. 64, at ¶¶ 3-11.) Plaintiff seeks dismissal of the Second Motion, imposition of sanctions, or an extension of time to complete his opposition brief. (*Id.*)

5. The Court declines to dismiss the Second Motion for Judgment on the Pleading or sanction Moving Defendants. The Court will, however, provide Plaintiff with an additional 30 days to complete his opposition brief. Plaintiff's opposition brief shall be handed to prison officials for filing no later than November 10, 2017. If Plaintiff fails to submit opposition within the timeframe provided by the Court, the Court will treat the Second Motion as unopposed.

IT IS, THEREFORE, on this 11th day of October, 2017,

ORDERED that Plaintiff's Motion for an extension of time is GRANTED; Plaintiff shall hand his opposition brief to prison officials for filing no later than November 10, 2017; if Plaintiff fails to submit his opposition brief within the timeframe specified by the Court, the Court will treat Moving Defendants' second Motion for Judgment on the Pleadings as unopposed; and it is further

ORDERED Moving Defendants may submit their reply brief within 7 days of their receipt of Plaintiff's opposition brief; and it is further

ORDERED that Plaintiff's "Motion for Sanctions, Dismissal, or Extension" (ECF No. 64) is otherwise DENIED; and it is further

ORDERED that the Clerk of the Court shall send a copy of this Memorandum and Order to Plaintiff at the address on file.

s/Freda L. Wolfson
Freda L. Wolfson
United States District Judge